

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Robert G. Taub

Phippsburg Post Office  
Phippsburg, Colorado

Docket No. A2012-81

ORDER AFFIRMING DETERMINATION

(Issued March 8, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”<sup>1</sup> The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

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<sup>1</sup> United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On November 23, 2011, Michael Williams (Petitioner Williams) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Phippsburg, Colorado post office (Phippsburg post office).<sup>2</sup> An additional petition for review was received from John Bergstrom (Petitioner Bergstrom).<sup>3</sup>

The Final Determination to close the Phippsburg post office is affirmed.<sup>4</sup>

## II. PROCEDURAL HISTORY

On December 8, 2011, the Commission established Docket No. A2012-81 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.<sup>5</sup>

On December 8, 2011, the Postal Service filed the Administrative Record with the Commission.<sup>6</sup> The Postal Service also filed comments requesting that the Commission affirm its Final Determination.<sup>7</sup>

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<sup>2</sup> Petition for Review received from Michael Williams regarding the Phippsburg, CO post office 80469, November 23, 2011 (Williams Petition).

<sup>3</sup> Petition for Review received from John Bergstrom regarding the Phippsburg, CO post office 80469, November 23, 2011 (Bergstrom Petition).

<sup>4</sup> The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

<sup>5</sup> Order No. 1030, Notice and Order Accepting Appeal and Establishing Procedural Schedule, December 8, 2011.

<sup>6</sup> The Administrative Record is attached to the United States Postal Service Notice of Filing, December 8, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Phippsburg, CO Post Office and Continue to Provide Service by Highway Contract Route Service (Final Determination).

<sup>7</sup> United States Postal Service Comments Regarding Appeal, January 17, 2012 (Postal Service Comments).

On November 25, 2011, the Commission received two notices of intervention objecting to the closure of the Phippsburg post office.<sup>8</sup>

Petitioner Williams filed a participant statement supporting his Petition.<sup>9</sup> The Commission also received a participant statement from Petitioner Bergstrom.<sup>10</sup> On January 31, 2012, the Public Representative filed reply comments.<sup>11</sup>

### III. BACKGROUND

The Phippsburg post office provides retail postal services and service to 144 post office box customers. Final Determination at 2. No delivery customers are served through this office. The Phippsburg post office, an EAS-11 level facility, provides retail service from 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., Monday through Friday, and 8:00 a.m. to 10:00 a.m. on Saturday. The lobby is accessible 24 hours a day, Monday through Saturday. *Id.*

The postmaster position became vacant on March 27, 2010, when the Phippsburg postmaster resigned. A non-career officer-in-charge (OIC) was installed to operate the office. *Id.* at 2, 6. Retail transactions average 32 transactions daily (40 minutes of retail workload). *Id.* at 2. Post office receipts for the last 3 years were \$17,839 in FY 2008; \$18,876 in FY 2009; and \$18,373 in FY 2010. *Id.* There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$43,622 annually. *Id.* at 6.

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<sup>8</sup> Notice of Intervention received from Elena Beal, November 25, 2011 (Beal Notice of Intervention); Notice of Intervention received from William V. Williams, November 25, 2011 (Williams Notice of Intervention).

<sup>9</sup> Participant Statement received from Michael Williams, January 4, 2012 (Williams Participant Statement).

<sup>10</sup> Participant Statement received from John Bergstrom, January 18, 2012 (Bergstrom Participant Statement).

<sup>11</sup> Reply Comments of the Public Representative, January 31, 2012 (PR Reply Comments).

After the closure, retail services will be provided by the Oak Creek post office located approximately 4 miles away.<sup>12</sup> Delivery service will be provided to cluster box units (CBUs) by highway contract route service through the Oak Creek post office. *Id.* The Oak Creek post office is an EAS-15 level office, with retail hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, and 8:00 a.m. to 11:00 a.m. on Saturday. *Id.* One hundred eleven (111) post office boxes are available. *Id.* The Postal Service will continue to use the Phippsburg name. *Id.* at 5, Concern No. 2. However, the Phippsburg ZIP Code will change. *Id.*

#### IV. PARTICIPANT PLEADINGS

*Petitioners.* Petitioners oppose the closure of the Phippsburg post office. Petitioners argue the closure will adversely affect the Phippsburg community. Williams Petition at 1; Bergstrom Petition at 1; Williams Participant Statement at 2; Bergstrom Participant Statement at 1; Beal Notice of Intervention at 1; Williams Notice of Intervention at 1. Petitioners contend that rural route service to CBUs will not provide regular and effective service to Phippsburg citizens and note specific burdens of the replacement service on Phippsburg customers. Williams Petition at 1; Williams Participant Statement at 1; Beal Notice of Intervention at 1. Petitioner Williams also asserts that the cost savings estimates from the closing are inaccurate. Williams Participant Statement at 1.

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Phippsburg post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Phippsburg community; and (3) the economic savings expected to result from discontinuing the Phippsburg post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration

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<sup>12</sup> *Id.* at 2. MapQuest estimates the driving distance between the Phippsburg and Oak Creek post offices to be approximately 3.6 miles (5 minutes driving time).

and concludes that the determination to discontinue the Phippsburg post office should be affirmed. *Id.* at 2, 11-12.

The Postal Service explains that its decision to close the Phippsburg post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

*Id.* at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, the effect on the Phippsburg community, economic savings, and the effect on postal employees. *Id.* at 11.

*Public Representative.* The Public Representative states that the Postal Service's Final Determination appears to be procedurally in order. PR Reply Comments at 2. She asserts that the Postal Service has considered the pertinent factors of 39 U.S.C. §404(d)(2). *Id.* The Public Representative concludes that no persuasive argument has been presented that would prevent the Commission from affirming the Postal Service's Final Determination to close the Phippsburg post office. *Id.*

## V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal

Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On May 4, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Phippsburg post office. Final Determination at 2. A total of 144 questionnaires were distributed to customers. Other questionnaires were made available at the retail counter. A total of 75 questionnaires were returned. *Id.* On June 15, 2011, the Postal Service held a

community meeting at the Routt Bible Church to address customer concerns. *Id.* Forty-two (42) customers attended. Administrative Record, Item 24.<sup>13</sup>

The Postal Service posted the proposal to close the Phippsburg post office with an invitation for comments at the Phippsburg and Oak Creek post offices from July 12, 2011 through September 12, 2011. Final Determination at 2. The Final Determination was posted at the same two post offices from October 21, 2011 through November 22, 2011. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

#### B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

*Effect on the community.* Phippsburg, Colorado is an unincorporated community located in Routt County, Colorado. Administrative Record, Item No. 16. The community is administered politically by a mayor and council. Postal Service Comments at 8. Police protection is provided by the Routt County Sheriff's Department. Administrative Record, Item No. 16. Fire protection is provided by the Routt County Fire Department. The community is comprised of retirees, self-employed individuals, and those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

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<sup>13</sup> The Final Determination incorrectly states that zero customers attended the community meeting. Final Determination at 2. This error in the Final Determination is immaterial.

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Phippsburg community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Phippsburg post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 5.

Petitioners argue that the closure of the Phippsburg post office will have an adverse effect on the community, especially its elderly residents. Williams Petition at 1; Bergstrom Petition at 1; Williams Participant Statement at 2; Bergstrom Participant Statement at 1; Beal Notice of Intervention at 1; Williams Notice of Intervention at 1. They emphasize that the Phippsburg post office is the center of the community. *Id.* The Postal Service contends that the closing of the Phippsburg post office will not leave residents without social outlets or a place to meet. Postal Service Comments at 9. It explains that residents may continue to meet informally, socialize, and share information at other locations and residences in the community-at-large and that CBUs may provide a gathering place for customers when retrieving their mail. *Id.* It further asserts that communities generally require regular and effective postal services and these will continue to be provided to the Phippsburg community. *Id.* at 8.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

*Effect on employees.* The Postal Service states that the Phippsburg postmaster resigned on March 27, 2010 and that an OIC has operated the Phippsburg post office since then. Final Determination at 2. It asserts that after the Final Determination is implemented, the temporary OIC will either be reassigned or separated and that no other Postal Service employee will be adversely affected. *Id.* at 6.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Phippsburg post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).



*Effective and regular service.* The Postal Service contends that it has considered the effect the closing will have on postal services provided to Phippsburg customers. Postal Service Comments at 5-6. It asserts that customers of the closed Phippsburg post office may obtain retail services at the Oak Creek post office located 4 miles away. Final Determination at 2. Delivery service will be provided by highway contract route service through the Oak Creek post office. *Id.* Phippsburg post office box customers may obtain Post Office Box Service at the Oak Creek post office, which has 111 boxes available. *Id.*

Petitioners raise the issue of the effect of the closure on effective and regular postal services. Williams Petition at 1; Williams Participant Statement at 1; Beal Notice of Intervention at 1. Petitioners express specific concerns regarding the inconvenience of traveling to the Oak Creek post office to obtain postal and other retail services and the adverse effects of the closure on senior citizens. *Id.*

For customers choosing not to travel to the Oak Creek post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 6. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.* at 7. Regarding Petitioners' concerns about senior citizens, the Postal Service explains that carrier service is especially beneficial to many senior citizens and those who face special challenges because the carrier can provide delivery and retail services to roadside mailboxes or cluster box units. *Id.* at 6. It also explains that customers do not have to make a special trip to the post office for most services; special services can be requested, Stamps by Mail and Money Order Application forms are available for customer convenience, and stamps are also available at many stores and gas stations, online at <http://www.usps.com>, or by calling 1-800-STAMP-24. *Id.*

Petitioner Williams is particularly concerned with the installation and use of CBUs, the effect of the winter weather on the customers accessing CBUs, and the lock mechanisms for CBUs. Williams Petition at 1; Williams Participant Statement at 1. The Postal Service notes that while inclement weather conditions are a factor in delivering

and collecting mail, the Postal Service makes every effort to provide a safe environment for its customers and employees. Postal Service Comments at 7. It adds that CBU maintenance can alleviate the potential for locks freezing in extremely cold conditions. *Id.* It further notes that customers may also contact the Oak Creek post office if they experience any problems with their CBUs. *Id.* The Public Representative notes that the Oak Creek post office has an insufficient number of post office boxes to accommodate all of the 144 post office box customers at the Phippsburg post office. However, she states that the installation of CBUs should allow Phippsburg customers to continue to receive regular and effective postal service. *Id.* She also suggests that the Postal Service should ensure that an adequate number of post office boxes are available at the Oak Creek post office to meet existing, as well as incremental, demand. *Id.*

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

*Economic savings.* The Postal Service estimates total annual savings of \$43,622. Final Determination at 2. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$4,000), minus the cost of replacement service (\$4,657). *Id.*

Petitioner Williams argues that the cost savings estimates from the closing are inaccurate. Williams Participant Statement at 1. He specifically asserts that the cost of installing cluster boxes negates significant savings, especially when the Postal Service already has existing boxes at the Phippsburg post office. *Id.* The Postal Service responds that there is a one-time cost of \$6,000 incurred in relation to the construction of CBUs and that boxes at the Phippsburg office will be removed and, if possible, recycled at other locations. Postal Service Comments at 9-10. It contends that record evidence supports the fact that highway contract route service will provide regular and effective service and is more cost-effective than maintaining the Phippsburg postal facility and postmaster position. *Id.* at 9-10.

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

## VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Phippsburg post office is affirmed.<sup>14</sup>

*It is ordered:*

The Postal Service's determination to close the Phippsburg, Colorado post office is affirmed.

By the Commission.

Ruth Ann Abrams  
Acting Secretary

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<sup>14</sup> See footnote 4, *supra*.

## DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Phippsburg post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster resigned on March 27, 2010. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only a non-career OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

The Commission has often expressed a concern—and I have consistently expressed the concern—that the maintenance of adequate service requires providing

an adequate number of post office boxes in the receiving facility. The Phippsburg post office provides Post Office Box Service to 144 customers, but the replacement facility in Oak Creek has only 111 post office boxes available. Thus, the record does not show that the Postal Service has sufficiently considered the issues raised by customers concerning the provision of effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Phippsburg, Colorado and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

## DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since March 2010, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

In addition, the Administrative Record is contradictory regarding whether there is a termination clause for the lease. The current lease expires on October 31, 2014, and Item 18 of the Administrative Record indicates there is no termination clause, while Item 15 at 1 notes a 90-day termination clause. The Postal Service should correct this discrepancy in the record, and if there is no termination clause, it should note that any savings from the lease will not be realized for nearly 3 years. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Phippsburg post office and should be remanded.

Nanci E. Langley